

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1809 Session of
2003

INTRODUCED BY EGOLF, HERSHEY, BASTIAN, CLYMER, COLEMAN,
DENLINGER, FAIRCHILD, GABIG, GORDNER, HORSEY, JAMES, LEH,
MAJOR, R. MILLER, S. MILLER, PICKETT, SAYLOR AND YOUNGBLOOD,
JULY 3, 2003

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
JULY 3, 2003

AN ACT

1 Providing for a commercial manure hauler and broker
2 certification program; and establishing requirements.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Commercial
7 Manure Hauler and Broker Certification Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Agricultural operation" or "operation." Animals, facilities
13 and land used for the production or management of crops,
14 livestock or poultry. The term shall include all land owned or
15 leased by the agricultural operator where manure from the
16 facility may be applied.

1 "Agricultural operator." An individual, partnership,
2 corporation or other entity that has management control of an
3 agricultural operation, including the animals and animal
4 facilities.

5 "Best management practice" or "BMP." A practice or
6 combination of practices determined by the State Conservation
7 Commission to be effective and practicable, given technological,
8 economic and institutional considerations, to manage nutrients
9 to protect surface and groundwater, taking into account
10 applicable nutrient requirements for crop utilization. Best
11 management practices include, but are not limited to:

- 12 (1) Conservation tillage.
- 13 (2) Crop rotation.
- 14 (3) Soil testing.
- 15 (4) Manure testing.
- 16 (5) Diversions.
- 17 (6) Manure storage facilities.
- 18 (7) Storm water management practices.
- 19 (8) Nutrient application.

20 "Board." The Nutrient Management Advisory Board created
21 under section 8 of the act of May 20, 1993 (P.L.12, No.6), known
22 as the Nutrient Management Act.

23 "Commercial manure broker." An individual or business
24 entity, not working for or under the control of an agricultural
25 operator, that assumes temporary control or ownership of manure
26 from an agricultural operation and arranges for transport to and
27 utilization at an importing operation.

28 "Commercial manure hauler." An individual or business entity
29 that transports or land-applies manure as a contract agent for
30 an agricultural operator or commercial manure broker under the

1 direction of the operator or broker.

2 "Commission." The State Conservation Commission established
3 under the act of May 15, 1945 (P.L.547, No.217), known as the
4 Conservation District Law.

5 "Concentrated Animal Feeding Operation" or "CAFO." An
6 agricultural operation that meets the criteria established for
7 designating certain animal feeding operations under the Federal
8 Water Pollution Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et
9 seq.) and the National Pollution Discharge Elimination System
10 (NPDES) Program regulations 40 CFR 122.23 (relating to
11 concentrated animal feeding operations (applicable to State
12 NPDES programs)) and required to follow the DEP Final Strategy
13 for Concentrated Animal Feeding Operations.

14 "Concentrated Animal Operation" or "CAO." An agricultural
15 operation that meets the criteria established under the act of
16 May 20, 1993 (P.L.12, No.6), known as the Nutrient Management
17 Act.

18 "DEP." The Department of Environmental Protection of the
19 Commonwealth.

20 "DEP Final Strategy for Concentrated Animal Feeding
21 Operations." The document entitled "Final Strategy for Meeting
22 Federal Requirements for Controlling the Water Quality Impacts
23 of Concentrated Animal Feeding Operations" adopted by the
24 Department of Environmental Protection and published in the
25 Pennsylvania Bulletin on March 13, 1999, and all subsequent
26 revisions thereto.

27 "Department" or "PDA." The Department of Agriculture of the
28 Commonwealth.

29 "Importer" or "importing operation." An agricultural
30 operation that receives and utilizes or processes manure not

1 produced by poultry or livestock that are part of that
2 agricultural operation.

3 "Manure Management Manual." The publication referenced by
4 and authorized under the act of June 22, 1937 (P.L.1987,
5 No.394), known as The Clean Streams Law and 25 Pa. Code Ch. 91
6 (relating to environmental protection).

7 "Nutrient." A substance or recognized plant nutrient,
8 element or compound that is used or sold for its plant nutritive
9 content or its claimed nutritive value. The term includes, but
10 is not limited to, livestock and poultry manures, compost used
11 as fertilizer, commercially manufactured chemical fertilizers,
12 sewage sludge or combinations thereof.

13 "Nutrient balance sheet" or "NBS." A document used to
14 determine appropriate manure, fertilizer and other nutrient
15 source application rates necessary to protect water resources
16 from the misapplication of crop nutrients. The NBS:

17 (1) Documents the analysis the agricultural operator
18 undertakes to determine the appropriate nutrient application
19 rate for crops grown on an agricultural operation based on
20 expected crop yields, residual soil nitrogen and nutrient
21 content of the nutrient sources utilized.

22 (2) Accounts for all nutrients generated and/or used by
23 the agricultural operation, including on-farm manure,
24 imported manure, sewage sludge, commercially manufactured
25 fertilizers and any other nutrient source intended to be
26 utilized during the crop year under consideration.

27 (3) Includes a description of the planned application
28 schedule and procedures to be used, including soil
29 incorporation.

30 (4) Utilizes nutrient application criteria that are

consistent with those set forth in the Manure Management Manual, the regulations promulgated under the authority of the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act, and the criteria established for the DEP Final Strategy for Concentrated Animal Feeding Operations.

"Nutrient management plan." A written site-specific plan which incorporates best management practices to manage the use of manure and other plant nutrients for crop production and water quality protection and water quality protection consistent with the criteria established under the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act.

Section 3. Commercial manure hauler and broker certification program.

(a) Duty and responsibility of the department:

(1) The department shall establish, within one year of the effective date of this act, in consultation with the commission and the board, a commercial manure hauler and broker certification program for the purpose of certifying individuals as certified manure haulers or brokers. The department shall by regulation establish such terms, conditions and fees for certification as it deems appropriate.

(2) For purposes of the certification program, the department shall develop, in consultation with the commission and the board, such training and educational requirements, testing and other criteria as it deems necessary for certification. Training shall at a minimum address the following topics:

(i) Laws and regulations pertaining to manure application.

1 (ii) Information necessary for understanding and
2 following a nutrient management plan and nutrient balance
3 sheet.

4 (iii) Best management practices with respect to
5 manure hauling and application, transport safety
6 procedures, calibration of application rates for various
7 types of application equipment, setbacks from water
8 sources and property lines, nutrient runoff concerns and
9 incorporation techniques.

10 (iv) Recordkeeping determined by the department to
11 be necessary for both agricultural operations generating
12 excess manure and manure importing operations to meet all
13 regulatory requirements of the act of May 20, 1993
14 (P.L.12, No.6), known as the Nutrient Management Act, and
15 the DEP Final Strategy for Concentrated Animal Feeding
16 Operations.

17 (v) Certified manure broker training shall include
18 procedures necessary for the development and filing of an
19 NBS.

20 (b) Training program approval.--The department shall have
21 the authority to approve, for the purposes of training and
22 education, programs developed by The Pennsylvania State
23 University and other educational institutions or entities that
24 meet the requirements of this section.

25 Section 4. Requirements for commercial manure haulers and
26 brokers.

27 (a) General rule.--All commercial manure haulers and
28 brokers, prior to engaging in transporting or land-applying
29 manure on behalf of an agricultural operation, shall have
30 successfully completed a manure hauler or broker certification

1 program approved by the department and received the appropriate
2 certification by the department.

3 (b) Land-applying of manure.--All certified manure haulers
4 and certified manure brokers shall, when land-applying manure on
5 behalf of an agricultural producer required under the provisions
6 of section 5 to use a certified hauler or broker, do so only in
7 accordance with the provisions of an approved nutrient
8 management plan or nutrient balance sheet.

9 (c) Records.--All certified manure haulers and brokers shall
10 maintain such records of all manure they broker, transport or
11 land-apply as the department, in consultation with the
12 commission and the board, determines to be necessary to meet the
13 requirements of this act, the regulations promulgated under the
14 act of May 20, 1993 (P.L.12, No.6), known as the Nutrient
15 Management Act, and the DEP Final Strategy for Concentrated
16 Animal Feeding Operations. The records shall, at minimum,
17 include the information necessary to document that the manure
18 was utilized in accordance with the Manure Management Manual.
19 Section 5. Exporting requirements.

20 In order to export manure to other agricultural operations,
21 all concentrated animal operations and concentrated animal
22 feeding operations, as required by their nutrient management
23 plan, shall:

24 (1) Prepare and have approved a nutrient balance sheet
25 for all importing operations receiving manure from the
26 operation.

27 (2) Utilize only certified manure haulers or certified
28 manure brokers for the transport and application of manure
29 exported from the operation.

30 (3) Maintain records sufficient to:

1 (i) meet all regulatory requirements with respect to
2 manure export, transport and land application or other
3 use at an importing operation established by the
4 commission, in consultation with the department and the
5 board, under the authority of the act of May 20, 1993
6 (P.L.12, No.6), known as the Nutrient Management Act; and
7 (ii) meet the requirements of the DEP Final Strategy
8 for Concentrated Animal Feeding Operations.

9 Section 6. Effective date.

10 This act shall take effect in 60 days.